

**STATE OF TENNESSEE**

OFFICE OF THE  
**ATTORNEY GENERAL**  
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January 12, 2004

Opinion No. 04-005

Illegal registration under Tenn. Code Ann. §2-19-107 constitutes voter fraud for the purposes of Tenn. Code Ann. §40-29-105

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**QUESTION**

Whether a conviction for illegal registration under Tenn. Code Ann. §2-19-107 constitutes “voter fraud” as contemplated by Tenn. Code Ann. §40-29-105?

**OPINIONS**

It is the opinion of this Office that a conviction for illegal registration constitutes “voter fraud” for the purpose of Tenn. Code Ann. §40-29-105.

**ANALYSIS**

In order to reach the conclusion that a conviction for illegal registration constitutes “voter fraud” for the purposes of Tenn. Code Ann. §40-29-105, three statutes must be examined. First, a person rendered infamous after July 1, 1986, by virtue of being convicted of one of the following crimes shall never be eligible to register and vote in this state: First degree murder, aggravated rape, treason or voter fraud. Tenn. Code Ann. §40-29-105(b)(2). While there is no crime titled “Voter Fraud” in the Tennessee Code, illegal registration or voting is the most analogous section. According to Tenn. Code Ann. §2-19-107, [a] person commits a Class E felony who:

(1) [i]ntentionally and knowing that such person is not entitled to, registers or votes in any manner or attempts to register or vote in any manner where or when such person is not entitled to under this title; or

(2) [v]otes in the primary election of more than one (1) political party on the same day.

Tenn. Code Ann. §2-19-107. Third, fraud “is defined as used in normal parlance and includes, but is not limited to, deceit, trickery, misrepresentation and subterfuge, and shall be broadly construed to accomplish the purpose of this title.” Tenn. Code Ann. §39-11-106(a)(13).

Based on these statutes, a person who intentionally registers or votes or attempts to

register to vote when or where he knows he is not entitled to commits a fraud upon the state. By employing fraudulent means to register and/or vote where or when one is not entitled, a person is guilty of “voter fraud.”

Though “voter fraud” is not specifically defined by statute, one who, by fraud, attempts to or does register or vote when not entitled to that privilege is guilty of “voter fraud” as contemplated by Tenn. Code Ann. §40-29-105(b)(2). Therefore, it is the opinion of this Office that a conviction for illegal registration pursuant to Tenn. Code Ann. §2-19-107 constitutes “voter fraud” for purposes of Tenn. Code Ann. §40-29-105.

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